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INTERNATIONAL BUSINESS MACHINES
CORPORATION

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA—SAN JOSE DIVISION

MILLIE HSU,

Plaintiff,

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION, and DOES 1 THROUGH
10, inclusive,

Defendants.

Case No. C 09-03506 JW

STIPULATION AND [PROPOSED]
ORDER CLARIFYING DISCOVERY
DEADLINES

Plaintiff Millie Hsu ("HSU") and Defendant International Business Machines Corporation
("IBM"), by and through their respective counsel, hereby submit the following Stipulation and
[Proposed] Order.

1 The parties hereby agree on the following:

2 1. On January 14, 2010 the parties filed a Joint Case Management Statement and
3 Proposed Order. In that Joint Case Management Statement, at paragraph 17, the parties
4 agreed upon and proposed the following schedule:

- | | |
|-------------------------------------|------------|
| 5 a. Discovery cut-off | 10/29/2010 |
| 6 b. Hearing on dispositive motions | 2/4/2011 |
| 7 c. Designation of experts | 2/11/2011 |
| 8 d. Expert discovery cutoff | 3/18/2011 |
| 9 e. Pre-trial Disclosures | 4/29/2011 |
| 10 f. Pre-trial conference | 5/20/2011 |
| 11 g. Trial | 6/06/2011 |

12 2. No trial dates has yet been set.

13 3. On January 21, 2010, the Court issued a Scheduling Order. In the Scheduling
14 Order, at paragraph 2, the Court ordered that it **“adopts the Discovery Plan proposed by the**
15 **parties in their Joint Case Management Statement.”**

16 4. The parties have proceeded with this action applying the discovery plan they
17 proposed in their January 14, 2010 Joint Case Management Statement, as set forth in paragraph
18 1 above.

19 5. However, upon further review, both counsel have noted that, in the Court’s
20 January 21, 2010 Scheduling Order, at paragraph 4 and in the section entitled “Case Schedule”
21 the Court has set forth a different discovery schedule that contradicts with the one adopted.

22 6. The parties believe that the Court also intended to follow the discovery schedule
23 proposed in the January 14, 2010 Joint Case Management Statement. *See* the Court’s June 17,
24 2010 Order denying the parties request to extend the deadlines, and referring to the October 29,
25 2010 deadline for the close of discovery.

26 7. One issue raised by the Court’s Scheduling Order is that it appears to set the
27 deadline for the designation and disclosure of experts to be August 16, 2010, “63 days before the

1 close of discovery.” Order at paragraph 4. This contradicts the deadline adopted of February
2 11, 2011.

3 8. The parties have begun the discovery process. One day of the deposition of
4 Plaintiff is concluded, with a second date set for August 16, 2010. The depositions of two IBM
5 employees are currently set for mid-August. Defendant has produced documents in response to
6 the first-round of discovery requests on July 29, 2010 and August 4, 2010.

7 9. While the parties are moving forward with discovery, they were not anticipating,
8 and cannot be prepared to determine at this time, what experts, if any, will be necessary for this
9 litigation. In sum, neither party is in a position to comply with the suggested deadline of August
10 16, 2010 for the designation of experts.

11 10. As the parties have proceeded thus far in following with the discovery deadlines
12 set forth in their Joint Case Management Statement, and that they believe these deadlines had
13 been adopted by the Court, the parties hereby seek that the Court order that the following
14 discovery deadlines apply to this case hereafter:

- | | |
|--------------------------------------|------------|
| 15 a. Discovery cut-off | 10/29/2010 |
| 16 b. Hearing on dispositive motions | 2/4/2011 |
| 17 c. Designation of experts | 2/11/2011 |
| 18 d. Expert discovery cutoff | 3/18/2011 |

19 IT IS SO STIPULATED:

20 DATED: August 5, 2010

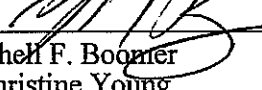
MINAMI TAMAKI LLP

21 By 

22 Brad Yamauchi
23 Bethany Caracuzzo
24 Attorneys for Plaintiff
25 MILLIE HSU
26
27
28

1 DATED: August 5, 2010

JACKSON LEWIS LLP

2
3 By 
4 Mitchell F. Boomer
5 S. Christine Young
6 Attorneys for Defendant
7 INTERNATIONAL BUSINESS MACHINES
8 CORPORATION

9 ~~[PROPOSED]~~ ORDER

10 PURSUANT to this Court's Order of January 21, 2010, at paragraph 2, and by stipulation
11 of the parties, IT IS SO ORDERED that the following deadlines shall apply to this matter:

- | | |
|--------------------------------------|------------|
| 12 a. Discovery cut-off | 10/29/2010 |
| 13 b. Hearing on dispositive motions | 2/4/2011 |
| 14 c. Designation of experts | 2/11/2011 |
| 15 d. Expert discovery cutoff | 3/18/2011 |

16 Dated: August 10, 2010

17 
18 HON. JAMES WARE
19 UNITED STATES DISTRICT COURT JUDGE